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PERSPECTIVE

'It's Their Process'

Mediator Robert Blum lets disputants choose settlement approach.

By Shane Nelson

Special to the Daily Journal

Neutral Robert A. Blum had to suspend a Zoom mediation he was conducting from his home office in August because an uncontained wildfire was blazing dangerously close to his Grass Valley neighborhood.

"My wife opened the doors of my study, and she looks a little bit harassed," Blum recalled. "So I asked the folks on Zoom to hold on for a minute, and then she said, 'We've got to run.' I said, 'Why?' She says, 'It's a big fire. ... If we walk out the door and look at the end of the street, you'll see a big plume of fire and smoke.' And I said, 'OK. We're gone.'"

The 2,600-acre River Fire was responsible for the unsettling cloud of soaring dark smoke and fire towering over the end of Blum's street, and according to the California Department of Forestry and Fire Protection, the blaze ultimately destroyed 142 residential and commercial buildings and injured four people before it was fully contained Aug. 13. Blum's neighborhood and home were spared.

Fairfield construction and real estate litigator Alfonso L. Poiré was one of the attorneys on the Zoom mediation Blum suspended that afternoon and said the neutral was extraordinarily calm and collected.

"Bob was cool headed enough to get us almost to the goal line before his wife came knocking on the door," Poiré recalled. Blum later wasted no time rescheduling everyone, reconvening and ultimately resolved the dispute, Poiré said.

"Bob did a terrific job, and he persevered, followed up and made sure he got the job done," Poiré said.



Courtesy Bob Blum Mediation

Blum decided to focus on private mediation work in 2018 after a 45-year legal career that included stints at three law firms, an in-house role at a major human relations company, time as deputy general counsel for The Permanente Medical Group Inc., and a highlight filled run in the 1970s as legislation counsel to the Joint Committee on Taxation for the U.S. Congress.

During his time in Washington, D.C., Blum said he was part of teams that audited President Richard Nixon's tax returns and conducted the investigation into use of the IRS for political purposes. Blum said he also played a role in

drafting ERISA law, and he did his first mediation work while at the federal taxation committee.

"My job was often to get the House and the Senate staffers to agree in circumstances where they had significant disagreements," he recalled. "It was finding out what their interests were and why and what their principals' interests were and why and finding a space where they could agree."

Although he's worked on major litigation over the course of his career, Blum noted he wasn't trained as a litigator, a distinction he said differentiates him from many other mediators. Much of his legal ca-

Robert A. Blum

Bob Blum Mediation
Northern California

Areas of Specialty:

- Employment
- Benefits
- General Business
- Contracts
- Real Estate
- Construction

reer has instead been focused on bringing folks together.

“My work to a large extent has been with clients who have different interests — sometimes with others, sometimes within the client — where you have to resolve a problem,” Blum explained.

Before a mediation, Blum said preparation is a critical component of his process, and he not only likes to receive briefs from attorneys but also tries to meet beforehand — often over Zoom — with lawyers and their clients.

“It’s usually at least an hour, and it can usually go longer than that,” he said. “And it just gives me time to ... understand them better, and they can understand me better.”

On the day of mediation, Blum said he’ll occasionally suggest joint sessions but noted that strategy often receives resistance from attorneys. Blum will employ a mediator’s proposals if he feels parties are close enough and if both sides agree the approach will be helpful.

“It’s their process,” Blum said. “I’m a ringmaster, I guess. But this is their process, and it’s their resolution and their settlement, not mine. I’m going to work with them the way they want to work.”

San Francisco employment litigator Seth A. Weisburst has used Blum as a mediator, and he said he was impressed by the neutral’s exhaustive preparation.

“He really dives into the material, the legal issues,” Weisburst said, noting Blum’s time researching the relevant law and meeting beforehand with parties made a big difference.

“Nobody has a magic wand,” Weisburst continued. “But if your mediator hasn’t taken the time to fully understand what’s at issue and the current state of the law, then that’s a significant extra hurdle you have to get over.”

Poiré agreed that Blum’s careful preparation distinguishes him, and he praised the mediator’s understanding of employment statutes.

“Bob’s very well versed in the law as it applies to unions and union disputes and pensions and pension disputes,” Poiré said. “If you’ve got someone who is well versed enough to speak intelligently on the subject — as Bob is — that really, really helps in the resolution effort.”

Walnut Creek trial attorney Shahrar Milanfar is using Blum to resolve a complex land dispute, and said the mediator has brought the parties extremely close to settlement.

“Frankly, if it wasn’t for Bob, we wouldn’t have gotten this close to getting it done,” Milanfar explained. “The case had been to two other mediators before Bob got involved, and he’s the one who moved the needle the most as far as getting people to compromise.”

Milanfar said the dispute features a number of big personalities, and Blum’s practical approach and ability to relate with people are wonderful attributes.

“He’s never a type of person who evaluates in an inappropriate way or in an off-putting way,” Milanfar added. “Bob really understands how to communicate with different personalities and different education levels and different experiences in a way that resonates.”

Blum said he has been happy with his decision to focus on private mediation work.

“For me, mediation is an adventure,” he explained. “Everyone is new. Every one is interesting and challenging. And I get to do this while helping others resolve their disputes. That’s the real payoff.”

Here are some attorneys who have used Blum’s services: Alfonso L. Poiré, Reynolds Law LLP; Seth A. Weisburst, Gordon Rees Scully Mansukhani LLP; Max A. Bernstein, Cooley LLP; Shahrar Milanfar, Milanfar Law Firm PC; Alberto E. Cordova, Sotheby’s International Realty ■